



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

Kathleen Clarke
Executive Director

Lowell P. Braxton
Division Director

1594 West North Temple, Suite 1210

PO Box 145801

Salt Lake City, Utah 84114-5801

801-538-5340

801-359-3940 (Fax)

801-538-7223 (TDD)

October 31, 2000

CERTIFIED RETURN RECEIPT Z 230 748 255

Mr. Jerry Holliday
Holliday Construction, Inc.
700 East Brown Canyon Road
P.O. Box 502
Blanding, Utah 84511

Re: Notice of Non-Compliance and Directive to Cease Mining Operations, Holliday Construction, Inc., Lime Ridge Mine, M/037/081 (ML-45960- BSLs), San Juan County, Utah

Dear Mr. Holliday:

This letter provides notice to Holliday Construction, Inc. (Holliday) that mining operations at the Lime Ridge Mine (M/037/081) are being conducted in violation of the Utah Mined Land Reclamation Act 40-8-1 et seq (Act) and the Minerals Reclamation Program Rules, sections R647-1 through R647-5. ***This notice directs Holliday to immediately cease all mining activities and remove all material from the mine site until an acceptable interim surety in the amount of \$57,400 has been provided to the Division to cover the reclamation costs for 11.48 acres of mining-related surface disturbance (\$57,400 = \$5,000 X 11.48 acres).***

Recent permitting information received from Holliday suggests that large mining operations have been conducted prior to filing a Notice of Intent to Commence Large Mining Operations and before receiving approval for same (see attached supplemental information). By doing so, Holliday has and continues to willfully or knowingly evade the surety requirements of the Mined Lands Reclamation Act applicable to large mines. See Utah Annotated Code 40-8-14 and rule R647-3-113.

Holliday's failure to resolve this non-compliance situation within 30 days of receipt of this letter, will result in the Division seeking an Order of the Board of Oil, Gas & Mining (pursuant to Utah Annotated Code 40-8-16 and 40-8-8, respectively), to withdraw Holliday's Notice of Intent to Mine (NOI), require immediate reclamation of all disturbed lands and immediately post a surety

in an amount and form acceptable to the Division guaranteeing that reclamation will be completed in compliance with state law.

Finding of Non-Compliance

1. The Lime Ridge Mine has exceeded the five acre surface disturbance threshold for a small mine operation without proper permitting as a large mine operation as required by section 40-8-13 of the Act and section R647-3-113 of the Minerals Rules.
2. As operator of the Lime Ridge Mine, Holliday Construction, Inc., has not posted a form and amount of reclamation surety acceptable to the Division as required by section 40-8-14 of the Act and section R647-4-113 of the Minerals Rules for a large mine operation.
3. Holliday Construction, Inc., as operator of the Lime Ridge Mine, has exceeded five acres of surface disturbance even though they were advised as early as April 24, 1994 not to do so without prior Division approval of a large mining notice. Holliday Construction, Inc. appears to have intentionally evaded the Act and Minerals Rules in a willful and knowing manner. Consequently, the operator's actions may be subject to section 40-8-9 of the Act.

Consequences of Continued Non-Compliance

1. Holliday's failure to resolve this Notice of Non-compliance within 30 days of receipt of this letter will result in the Division filing a formal Notice of Agency Action with the Board of Oil, Gas and Mining. Following public notice and Hearing, the Board will decide whether to issue an abatement or compliance Order which may require: suspension or termination of all mining operations, immediate reclamation of all mining-related disturbances, and/or other lawful requirements as authorized under the Act.
2. The Board may also ask the county prosecutor or attorney general to bring suit against Holliday Construction to enforce its Orders and to seek assessment of appropriate penalties, not to exceed \$10,000 per violation for each willful and knowing violation of the Act.

The Division is aware that Holliday has a \$23,500.00 surety (2 Certificates of Deposit) posted with SITLA for rental, royalty and reclamation obligations associated with their mineral lease agreement. A new surety, or a rider to SITLA's existing sureties increasing the amount to \$57,400.00, would satisfy both agencies interim bonding requirements until a detailed, site specific surety amount is calculated as part of the large mining permit approval process. (Please contact SITLA directly, if you choose to make adjustments to the existing SITLA sureties). We have enclosed our surety bond form if you choose to post this form of surety. Also enclosed is a

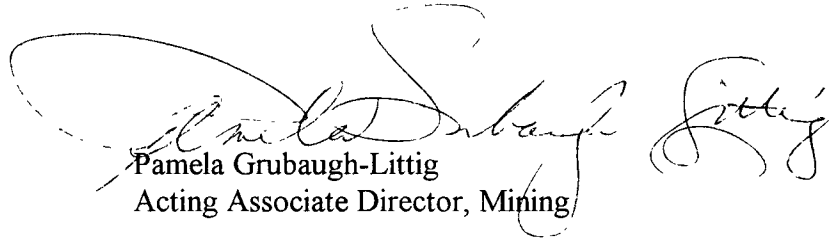
Page 3
Jerry Holliday
M/037/081
October 31, 2000

Reclamation Contract which needs to be completed, which is tied directly to the reclamation surety.

If you have any questions regarding this Notice please contact me at (801) 538-5268, Wayne Hedberg at (801) 538-5286, or Tony Gallegos at (801) 538-5267.

Thank you for your immediate attention to this matter.

Sincerely,



Pamela Grubaugh-Littig
Acting Associate Director, Mining

jb
Enclosure: Reclamation Contract, surety bond form
cc: Kurt Seel, Assistant Attorney General
John Blake, SITLA
Wayne Hedberg DOGM
Tony Gallegos, DOGM
o:\noncompliance\m37-81NON-3.wpd

Notice of Non-Compliance Supplemental Information

Location of Mining Operation

The Lime Ridge Mine is located in the NW 1/4 NW 1/4 and SW 1/4 NW 1/4 of section 16, T41S, R20E, SLBM, San Juan County, Utah. This operation is also permitted with the School and Institutional Trust Lands Administration (SITLA) under mineral lease 45960-BSLS.

Background Information

- On April 24, 1994, the Division sent a certified letter advising Holliday that its project surface disturbance was estimated to be under five acres at that time; however, Holliday was advised to exercise caution in expanding its operations. Holliday was informed that it was a violation of the Utah Mined Land Reclamation Act to expand operations beyond five acres before receiving Division approval of a large mining notice.
- On November 5, 1999, the Division received Holliday's initial Large Mine Operation Notice of Intention submission. The large mining notice did not comply with state regulations and the Divisions's initial review comments were mailed to Holliday on April 10, 2000.
- On May 12, 2000, the Division received Holliday's second response which was essentially the same information submitted in 1999. Our second review comments regarding the NOI deficiencies were returned to Holliday on May 16, 2000.
- On June 16, 2000, the Division received Holliday's third response, which again did not adequately respond to the Division's concerns. On August 4, 2000, we sent a third review letter to Holliday by certified mail. *Our third review letter stated explicitly in bold print that submission of a large mine operation notice of intention does not authorize Holliday to expand operations beyond five acres of surface disturbance.*
- On September 18, 2000, the Division received a response to our August 4, 2000, review letter. The response did not include a cover letter or follow the suggested review comment format. A response to all the Division's comments was provided except for those under rules R647-4-112 Variance, R647-4-113 Surety, and R647-4-115 Confidential Information. Additional figures or attachments to this response included: a copy of a Utah Division of Air Quality Notice of Temporary Relocation of Portable Equipment application; Figure 1 - Surface Facilities Map; Figure 2 - Cross sections; Figure 3 -Reclamation Map; Figure 4 - Photograph of Mine Pit ponding; and a copy of the resume and qualifications of Todd Black.

Most importantly, a review of Figures 1 through 3 of this latest response reveals this operation has affected 11.48 acres of surface disturbance without receiving prior Division approval of a Large Mining Operations Notice of Intention.